

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CRIMINAL ACTION NO. 3:21-CR-00045-KDB-DCK-1**

**UNITED STATES OF AMERICA,**

**v.**

**DANA DEAN FETHERSON,**

**Defendant.**

**ORDER**

**THIS MATTER** is before the Court on Defendant's *pro se* motion for application of the Sentencing Commission's recent amendment to U.S.S.G. §4A1.1 in Amendment 821. (Doc. No. 48).

In Defendant's Presentence Report, Defendant was assessed two criminal history points called "status points" as he committed the offense while under a criminal justice sentence. (Doc. No. 32, ¶ 46). This gave the Defendant five criminal history points and a criminal history category of III. *Id.*, ¶ 47. Under the amendment to U.S.S.G. §4A1.1, the Defendant would not have received any status points as he only had three criminal history points before the aforementioned assessment. Three criminal history points would be a criminal history category II and the applicable sentencing guidelines would change to 63-78 months imprisonment given his offense level of 25.

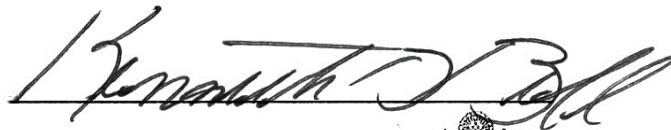
At sentencing, this Court varied upward from the guidelines and sentenced Defendant to 120 months imprisonment. (Doc. No. 35). This Court noted that the guideline calculations did not take into account the violent nature of the offense and the impact on the victims. (Doc. No. 36 at 3). Additionally, the Defendant showed no remorse and took no responsibility for his actions as he continued to deny relevant conduct. *Id.* The Court also found him to be a danger to the

community as he was under a criminal justice sentence for manslaughter when he committed the instant offense. *Id.* Having considered all the § 3553(a) factors, this Court will not reduce Defendant's sentence as he is still a danger to the community.

**IT IS THEREFORE, ORDERED**, that Defendant's *pro se* request for application of the Sentencing Commission's recent amendment to U.S.S.G. §4A1.1 and reduction in sentence (Doc. No. 48), is **DENIED**.

**SO ORDERED.**

Signed: November 9, 2023

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell  
United States District Judge

